

TOWN OF FOXBOROUGH
Board of Selectmen – Executive Session
September 28, 2010

Members Present: Lynda Walsh, Chairman
Larry Harrington, Vice Chairman
James J. DeVellis, Clerk
Lorraine Brue
Paul Mortenson

Others Present: Andrew A. Gala, Jr., Acting Town Manager
Attorney Leo Peloquin
Eric Arvedon, Paul Steeves and Paul Mullen, Board of Health
William McKinnon, MIIA, Claims Manager
Attorney Deborah Ecker, Representing MIIA

The meeting was brought to order by Lynda Walsh, Chairman.

Motion by Paul Mortenson to go into Executive Session for the purpose of discussing litigation and to exit Executive Session to go into the regularly scheduled 7:00 p.m. open meeting of the Board of Selectmen.

Vote: 5-0-0	Lynda Walsh, Chairman	yes
	Larry Harrington, Vice Chairma	yes
	Jim DeVellis, Clerk	yes
	Lorraine Brue	yes
	Paul Mortenson	yes

Attorney Peloquin said he had spoken to both parties and both have considered an early settlement of this case. The issue now is to determine what would be acceptable; conditions of Ms. Marc Macfarland's employment and the financial settlement for Ms. Andrea McGillicuddy. The fee charged by Attorney Ellis to the plaintiff is \$7,300.00.

As a point of disclosure, Larry Harrington said he had received a letter from Pauline Clifford written in 2009. He presumed that this is the letter written by Ms. Macfarland that was the basis of some of the complaints. Larry wants to be comfortable with the settlement for Ms. Macfarland. He pointed out that she must have proper training and monitoring.

Attorney Peloquin said he has met with both Boards and they have agreed that this case should be settled and what remains is to determine what it would take to settle. Ms. Macfarland wants to start over with a clean slate. From the Town's perspective she has to understand that there are rules in the Board of Health and it is necessary to make it very clear that she has to abide by those rules. She has shown that she is able to work with Pauline Clifford in the absence of Ms. McGillicuddy.

Attorney Peloquin pointed out that the Town is going to have to pay unemployment when Ms. McGillicuddy leaves. The Town would be looking at \$12,000 minimum for unemployment with a possible extension of that benefit going as high as \$21,000. He noted that nothing has been paid to Ms. McGillicuddy except vacation time. Leo feels that Attorney Ellis is going to demand \$35,000 to \$45,000 in addition to unemployment to settle this case.

Bill McKinnon, MIIA Claims Manager, said there would be no problems helping with the Attorney's fees, etc. The buy-out piece has to be decided by the Board. He noted that Attorney Ellis' fee is \$7,300. The discussion turned to the settlement money and where that would come from. Andy Gala pointed out that there are some savings in the budget because no salary has been paid during this time. The budget could be supplemented through a request for transfer. Larry Harrington asked how much of this would be from the Town's budget and how much from the budget of the Board of Health. Eric Averdon said the

Board of Health has no funding at this time. Andy Gala suggested that some could come from Title 5 account. Larry Harrington is concerned about depleting by 1/3 the Reserve Account. Attorney Peloquin said he would like to have something by the end of this week. He feels this can be settled in a reasonable way. Jim DeVellis expressed concern about a settlement that would have Ms. Macfarland working again with Ms. Clifford and having to do "this all over again" in the future. He feels it is the Town's responsibility to see that employees can work together before a situation gets to this point and the Town needs to be sure an employee receives proper training. Andy Gala pointed out that Ms. Macfarland has been working with Pauline Clifford for a couple of weeks and it is working out much better.

Paul Steves said all had signed the Professional Conduct paper and all should get a fresh start. Jim DeVellis asked if Ms. Macfarland is qualified to represent the Town. Attorney Peloquin suggested that there needs to be more discussion on what is expected in a professional way when the employee has to go out to the job site. He pointed out that in this case there is one employee who wants to keep her job and another who does not. He feels this settlement is the best the Town can do.

Motion by Paul Mortenson to authorize the Town Manager to settle this case by paying Ms. Marc Macfarland and Ms. Andrea MacGuillicuddy subject to a cap of \$40,000. Seconded by Lorraine Brue.

Vote: 5-0-0	Lynda Walsh, Chairman	Yes
	Larry Harrington, Vice Chairman	Yes
	Jim DeVellis, Clerk	Yes
	Lorraine Brue	Yes
	Paul Mortenson	Yes

Motion by Paul Mortenson to exit Executive Session to go into the regularly scheduled open BOS meeting. Seconded by Lorraine Brue.

Vote: 5-0-0	Lynda Walsh, Chairman	Yes
	Larry Harrington, Vice Chairman	Yes
	Jim DeVellis, Clerk	Yes
	Lorraine Brue	Yes
	Paul Mortenson	Yes

Executive Session adjourned at 7:00 p.m.